

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-360-E

FLOODPLAIN, FLOODWAY, WATERCOURSE AND WETLAND PROTECTION
ORDINANCE AMENDMENT

An Ordinance to amend Chapter 12, regarding Floodplain, Floodway, Watercourse And Wetland Protection for consistency with State Construction Code provisions and regulations relating to floodplains and floodways.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Article I, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse and Wetland Protection, Section 12-2, Purposes, is hereby amended to read as follows:

Sec. 12-2. Purposes.

The purposes of this chapter are to provide for:

- (1) The protection, preservation, proper maintenance and use of township watercourses and wetlands in order to minimize or eliminate disturbance to them and to prevent damage from erosion, turbidity or siltation and to prevent a loss of fish or other beneficial aquatic-organisms, a loss of wildlife and vegetation or the destruction of the natural habitat thereof;
- (2) The protection of the township's potable fresh water supplies from the dangers of drought, overdraft, contamination or mismanagement;
- (3) The use of controls and regulations to secure safety from floods; to prevent loss of life, property damage and other losses and risks associated with flood conditions; to reduce the financial burdens imposed upon the community through rescue and relief efforts occasioned by the occupancy or use of areas subject to periodic flooding; to protect individual and community riparian rights; and to preserve the location, character and extend to natural drainage courses;
- (4) The enforcement of this chapter and coordination of the enforcement of appropriate local, county and state ordinances and statutes with the corresponding county or state agency, including, but not limited to:
 - a. Soil Erosion and Sedimentation Control Act (Act No. 347 of the Public Acts of Michigan of 1972 (MCL 282.101 et seq., as amended) enforced by the county drain commission;

- b. Inland lakes and Streams Act (Act No. 346 of the Public Acts of Michigan of 1972 (MCL 281.951 et seq., as amended) enforced by the state department of natural resources;
 - c. Goemaere-Anderson Wetland Protection Act (Act No. 203 of the Public Acts of Michigan of 1979, (MCL 281.701 et seq., as amended);
 - d. The National Flood Insurance Act of 1968, as amended;
 - e. The Flood Disaster Protection Act of 1973, as amended.
- (5) The granting of use permits;
 - (6) A procedure for the appealing of decisions;
 - (7) Penalties for the violation of this chapter.

Section 2 of Ordinance

Article I, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse and Wetland Protection, Section 12-4, Lands to which Chapter Applies, is hereby amended to read as follows:

Sec. 12-4. Lands to which chapter applies.

This chapter shall apply to all lands within the jurisdiction of the township upon which any of the following conditions exist:

- (1) *Flood hazard area* or *flood hazard prone areas* , as defined in the State Construction Code, and as identified on the Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Flood Insurance Study, Oakland County, Michigan, and Incorporated Areas" and dated September 29, 2006, the Flood Insurance Rate Maps (FIRMS) panel numbers of 26125C0477F, 26125C0479F, 26125C0481F, 26125C0482F, 26125C0483F, 26125C484F, 26125C0487F, 26125C0489F, 26125C0491F, 26125C0492F, 26125C0493F, 26125C0494F, 26125C0501F, 26125C0502F, 26125C0503F, 26125C0504F, 26125C0511F, 26125C0512F, 26125C0513F, 26125C0514F and dated September 29, 2006
- (2) Watercourses as defined in this chapter or as identified on the official watercourse and wetland map of the township.
- (3) Wetlands as defined in this chapter.

Section 3 of Ordinance

Article I, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse and Wetland Protection, Section 12-5, Definitions, is hereby amended to amend the following terms which are otherwise defined in the State Construction Code:

Flood or Flooding means a) a general and temporary conditions of partial or complete inundation of normally dry land, from: 1) The overflow of inland tidal waters, 2) The unusual and rapid accumulation or runoff of surface waters from any source; or 3) mudflows; and b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Floodplain means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river, creek, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Flood Hazard Area means the greater of the following areas: 1) the area within a floodplain subject to a 1-percent or greater chance of flooding in any year, 2) The area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

Official maps means the official watercourse and wetland map and official flood and drainage map of the township, as amended or updated from time to time, and the flood boundary map and the Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Flood Insurance Study, Oakland County, Michigan, and Incorporated Areas" and dated September 29, 2006, and the Flood Insurance Rate Maps (FIRMS) panel numbers of 26125C0477F, 26125C0479F, 26125C0481F, 26125C0482F, 26125C0483F, 26125C484F, 26125C0487F, 26125C0489F, 26125C0491F, 26125C0492F, 26125C0493F, 26125C0494F, 26125C0501F, 26125C0502F, 26125C0503F, 26125C0504F, 26125C0511F, 26125C0512F, 26125C0513F, 26125C0514F and dated September 29, 2006. .

Section 4 of Ordinance

Article III, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse And Wetland Protection, Section 12-51, Township Flood and Drainage Map, is hereby amended to read as follows:

Sec. 12-51. Township flood and drainage map.

(a) The township shall prepare a flood and drainage map for the township showing the following:

(1) Floodplain boundaries of a Flood Hazard Area as determined by Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Flood Insurance Study, Oakland County, Michigan, and Incorporated Areas" and dated September 29, 2006, the Flood Insurance Rate Maps (FIRMS) panel numbers of 26125C0477F, 26125C0479F, 26125C0481F, 26125C0482F, 26125C0483F, 26125C0484F, 26125C0487F, 26125C0489F, 26125C0491F, 26125C0492F, 26125C0493F, 26125C0494F, 26125C0501F, 26125C0502F, 26125C0503F, 26125C0504F, 26125C0511F, 26125C0512F, 26125C0513F, 26125C0514F and dated September 29, 2006 and an approved survey, by records of local, state and federal agencies

(2) Ordinary high water mark boundaries in current evidence;

(3) Established levels of lakes as regulated by the county and controlled by overflow.

(b) The township shall be empowered to change or alter the boundaries established by the flood and drainage map, except with respect to the information contained in the FEMA Flood Insurance Study and Flood Insurance Rate Maps referenced above, after a public hearing, provided new and substantiated data shows a change in 100-year floodplain boundaries or ordinary high water mark boundaries. The public hearing shall be held in accordance with the procedures outlined in section 12-12. With respect to information contained in the FEMA Flood Insurance Study and Flood Insurance Rate Maps, the Township may petition FEMA for a letter of map revision in accordance with applicable state and federal regulations with respect to changes in the 100-year floodplain boundaries.

Section 5 of Ordinance

Article IV, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse and Wetland Protection, Section 12-72, Prohibited Improvements, Structures, is hereby amended to read as follows:

Sec. 12-72. Prohibited improvements, structures.

It shall be unlawful to locate within a Flood Hazard Area the following improvements or structures:

(1) Any structure either public or private for the purpose of assembly.

(2) Any new residential dwelling unless it complies with all applicable provision and regulations of the State Construction Code with respect to construction of residential dwellings in Flood Hazard Area or flood hazard prone areas. . Prior to a certificate of occupancy being issued for a new residential dwelling in a Flood Hazard Area , a registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(3) Mobile homes.

Section 6 of Ordinance

Article IV, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse And Wetland Protection, Section 12-73, Acts for which Use Permit Required; Application Review Criteria, is hereby amended to read as follows:

Sec. 12-73. Acts for Which Use Permit Required; Application Review Criteria.

(a) A written use permit from the township is required to:

(1) Alter the topography on lands in a Flood Hazard Area ;

(2) Locate any operation, obstruction or structure within the floodway;

(3) Allow any operation, obstruction or structure to remain within the floodway;

(4) Locate any operation, obstruction or structure on lands in a Flood Hazard Area

(5) Allow any operation, obstruction or structure to remain on lands in a Flood Hazard Area

(6) Make alterations of any obstruction or structure within these floodways or floodplains, whether such obstruction or structure is located in the floodway or floodplain before or after the effective date of the ordinance from which this chapter was derived. Maintenance of an obstruction or structure existing prior to the effective date of the ordinance from which this chapter was derived shall not be construed to be an alteration.

(b) Subject to the provisions and requirements of the State Construction Code, appropriate uses in Flood Hazard Area , excluding the floodways, may include railroad tracks, streets, utility lines, storage yards for equipment and nonhazardous material not subject to major damage or displacement by flood, provided such is accessory to a use permitted in an adjoining area.

(c) Subject to the procedural limitation of article II of this chapter, the township may issue use permits for location or alteration of obstructions and structures provided such use permits do not violate the purpose and intent of this chapter or of any applicable state statutes, including the State Construction Code.

(d) In reviewing any application for a use permit under paragraph (a), criteria such as the following shall be considered:

(1) The provisions and regulations of the State Construction Code pertaining to new construction and substantial improvements within Flood Hazard Area or flood hazard prone areas.

(2) Danger to life, health or property by water which may be backed up or diverted by such obstruction;

- (3) Danger that the obstruction will be swept downstream to the injury of others;
 - (4) Danger of water pollution resulting from floods;
 - (5) Possible alternatives;
 - (6) Construction or alteration of the obstruction in such a manner as to lessen the danger;
 - (7) Permanence of the obstruction;
 - (8) Anticipated development in the foreseeable future of the area which may be affected by the obstruction, including maintaining the stability of the tax base by preventing improper development of flood-prone areas; and
 - (9) Other factors as are in harmony with the purpose of this chapter.
- (e) A use permit shall not be issued unless it is shown that:
- (1) All provisions and requirements of the State Construction Code pertaining to new construction and substantial improvement in Flood Hazard Area and flood hazard prone areas have been complied with.
 - (2) Adequate storage capacity remains to control a Flood Hazard Area ;
 - (3) The proposed operation is primarily dependent upon being located in a floodplain or floodway;
 - (4) No feasible and prudent alternative is available;

Section 7 of Ordinance

Article IV, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse and Wetland Protection, Section 12-74, Acts for which Use Permit Not Required, is hereby amended to read as follows:

Sec. 12-74. Act for which use permit not required.

Subject to the conditions of section 12-73, no use permit is required for use of a floodway or Flood Hazard Area for:

- (1) Cultivation and harvesting of crops according to recognized soil conservation practices;
- (2) Pasture, grazing land, forestry, outdoor plant nursery, orchard, and harvesting of crops;

- (3) Wildlife sanctuary, woodland preserves and arboretums;
- (4) Recreational uses such as parks, day camps, picnic groves and golf courses, so long as a Use Permit was obtained for construction of any building or structure serving the park, day camp, golf course, or picnic grove and that those buildings or structures comply with the State Construction Code provisions and regulations pertaining to new construction and substantial improvement in flood prone and flood hazard prone areas.

Section 8 of Ordinance

Article IV, of Chapter 12 of the West Bloomfield Code of Ordinances, as amended, Floodplain, Floodway, Watercourse and Wetland Protection, Section 12-75, Fast Track Permits, is hereby amended to read as follows:

Sec. 12-75. Fast track permits.

The following operations may be applied for, reviewed and approved as fast track permits as provided in subsections 12-32(5) and 12-33(5) subject to any applicable State Construction Code provisions and regulations pertaining to new construction and substantial improvement in Flood Hazard Area and flood hazard prone areas:

- (1) The installation of posts for decks and fences in a floodplain provided there is mitigation within the same floodplain area on the affected property that is equal to or greater than the volume of material to be placed in the floodplain.
- (2) The installation of new decks, patios and fences provided it does not involve the removal or deposit of more than one (1) cubic yard of material.
- (3) Repair and maintenance of previously permitted decks, patios and fences.
- (4) Finish grading of no more than two hundred fifty (250) square feet that does not alter the existing grade elevations and drainage patterns.

Section 9 of Ordinance

Sections or subsections of the Chapter that are not referenced herein remain unchanged. All Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed. Should any Section, subdivision, sentence, clause or phrase of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 10 of Ordinance

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time of this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 11 of Ordinance

This ordinance shall take effect September 29, 2006 upon publication in the manner prescribed by law.

CERTIFICATION

It is certified that the Ordinance set forth above was duly adopted by the Charter Township of West Bloomfield Board of Trustees, at a meeting duly called and held on the 28th day of August, 2006, to be effective upon publication as provided by law.

By: _____



Sharon A. Law, Clerk

INTRODUCED: 08/14/06
ADOPTED: 08/28/06
EFFECTIVE: 09/29/06
PUBLISHED: 09/03/06

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